

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

DAVID SPECTOR, Individually and on  
Behalf of All Others Similarly Situated,,

Plaintiff,

L'ORÉAL USA, INC. and VALEANT  
PHARMACEUTICALS INTERNATIONAL,  
INC.,

Defendants.

CASE NO. 1:17-cv-09123-RJS

Action Filed: November 21, 2017

**DECLARATION OF THOMAS B. MAYHEW IN SUPPORT OF L'ORÉAL USA, INC.  
AND VALEANT PHARMACEUTICALS INTERNATIONAL INC.'S MOTION TO  
DISMISS**

I, Thomas B. Mayhew, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am a partner with Farella Braun + Martel LLP, attorneys of record for Defendants L'Oréal USA, Inc. and Valeant Pharmaceuticals International, Inc. I submit this Declaration in support of L'Oréal USA, Inc. and Valeant Pharmaceuticals International Inc.'s Motion To Dismiss.

2. Attached as Exhibit A herewith is a true and correct copy of *Carroll v. S.C. Johnsons & Son, Inc.*, 17-cv-5828 (March 29, 2018) (N.D. Ill. March 29, 2018) (Order and Opinion), ECF No. 53 .

3. Attached as Exhibit B herewith is a true and correct copy of *Dayan v. Swiss-American Prods., Inc.*, 15-cv-06895-(DLI) (VMS) (E.D.N.Y. January 3, 2017) (Report and Recommendation), ECF No. 23.

4. Attached as Exhibit C herewith is a true and correct copy of *Dayan v. Swiss-American Prods., Inc.*, 1:15-cv-06895-DLI-VMS (E.D.N.Y. January 22, 2016) (Memorandum of Law in Support of Defendant's Motion to Dismiss), ECF No. 12-8.

5. Attached as Exhibit D herewith is a true and correct copy of *Dayan v. Swiss-American Prods., Inc.*, 1:15-CV-06895-DLI-VMS (E.D.N.Y. February 19, 2016) (Memorandum of Law in Opposition to Defendant's Motion to Dismiss), ECF No. 17.

6. Attached as Exhibit E herewith is a true and correct copy of *Dayan v. Swiss-American Prods., Inc.*, 1:15-cv-06895-DLI-VMS (E.D.N.Y. March 4, 2016) (Reply Memorandum of Law in Support of Defendant's Motion to Dismiss), ECF No. 20.

7. Attached as Exhibit F herewith is a true and correct copy of *Dayan v. Swiss-American Prods., Inc.*, 1:15-CV-06895-DLI-VMS (E.D.N.Y. January 24, 2017) (Objections to

Magistrate Judge Vera M. Scanlon's Report and Recommendation to Grant in Part, and Deny the Remainder of, Defendant's Motion to Dismiss the Complaint), ECF No. 25.

8. Attached as Exhibit G herewith is a true and correct copy of *Dayan v. Swiss-American Prods., Inc.*, 1:15-cv-06895-DLI-VMS (E.D.N.Y. February 14, 2017) (Plaintiff's Memorandum of Law in Response to Defendant's Objections to Magistrate Judge Scanlon's January 3, 2017 Report and Recommendation), ECF No. 26.

9. Attached as Exhibit H herewith is a true and correct copy of "Comments on the Revised Effectiveness Determination; Sunscreen Drug Products for Over-the-Counter Human Use" from Proctor & Gamble Company to the Food and Drug Administration (September 15, 2011).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in San Francisco, California on the 8<sup>th</sup> day of May, 2018.

\_\_\_\_\_  
/s/ Thomas B. Mayhew  
Thomas B. Mayhew